

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JUAN TACLAN Y PARONGA, DANILO TACLAN Y LALUZ, NEMESIO ALCANTARA Y GIRIGANDA AND PERFECTO GASTA Y QUEVIDO, ACCUSED. JUAN TACLAN...

G.R. No. 123109. June 17, 1999

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

JUAN TACLAN Y PARONGA, DANILO TACLAN Y LALUZ, NEMESIO ALCANTARA Y GIRIGANDA and PERFECTO GASTA Y QUEVIDO were charged with murder before the Regional Trial Court of Santa Cruz, Laguna, for killing, in conspiracy with one another, Carlos Taclan y Paronga, with treachery, abuse of superior strength and evident premeditation.[1]

On 17 July 1995 the trial court convicted Juan Taclan, Danilo Taclan and Nemesio Alcantara as principals in the crime charged, qualified by treachery, for which they were sentenced to reclusion perpetua. Perfecto Gasta was found guilty only as an accomplice in the murder and was imposed an indeterminate penalty of eight (8) years and one (1) day of prision mayor as minimum, to fourteen (14) years, eight (8) months and one (1) day of reclusion temporal as maximum. The court a quo also ordered all the principals jointly and severally to pay the heirs of the deceased Carlos Taclan P50,000.00 as indemnity for death and P15,000.00 for funeral expenses, plus the costs of suit.[2]

The evidence shows that at around 7:00 o'clock in the morning of 20 February 1994 Enrique Lagondino went to the vegetable plantation of Carlos Taclan, a co-worker in the hacienda situated in Barangay Masapang, Victoria, Laguna. While gathering vegetables some thirty (30) meters away from the hut of Carlos, Enrique spotted Juan Taclan, brother of Carlos, and Juan's son, Danilo Taclan, within the immediate vicinity of the hut. Juan and Danilo were well known to Enrique since all of them resided in the same barangay. In fact, Danilo was a compadre of Enrique. According to Enrique, he heard Juan shout, "Putang-ina mo, lumabas ka diyan!" directed at Carlos who was inside the hut. Carlos then hung his jacket and bolo inside the hut and approached Juan. They talked. Afterwards Carlos retrieved his jacket and bolo and walked away in the direction of San Felix in Victoria, leaving behind Juan and Danilo. Enrique also left the place. It was 8:00 o'clock in the morning, more or less.

At about 2:00 o'clock in the afternoon of the same day, Enrique went to the fishpond owned by a certain Fernandez near the vegetable plantation of Carlos. An hour later, while catching fish under the shade of a dapdap tree, Enrique saw Juan, Danilo, Nemesio Alcantara and Perfecto Gasta coming. Enrique has also known Nemesio and Perfecto for a long time. The four (4) proceeded in the direction of the guava tree and banana plants where they hid themselves. Reminded of the cursing incident he witnessed in the morning, Enrique also sought cover behind the dapdap tree about eight (8) meters away and waited.

An hour later, Enrique saw Carlos approaching the direction where the group of Juan was hiding. Then he saw Juan making signs to his companions. As Carlos passed by the banana plants Juan hit him at the lower nape

sending him flat to the ground with face down. Juan then waived to his companions who immediately joined him and together they carried Carlos bodily toward the guava tree with Juan holding the hands of Carlos, Nemesio his body, and Perfecto and Danilo his feet. Danilo pulled out his bolo and hacked Carlos on the upper portion of his right arm. Nemesio followed suit and stabbed Carlos likewise on his right arm. Danilo dropped his bolo and drew a knife from his back pocket and slashed Carlos on the thigh. Perfecto then went to the fishpond to fetch water which he poured on the body of Carlos.

Completely unnerved by the startling incident he had just seen, Enrique ran home immediately. He could not sleep that night. He kept silent even as he became aware that the police authorities of Victoria were already investigating the circumstances surrounding the death of Carlos. The incident traumatized Enrique. Finally, on 3 April 1994, continually bothered by his conscience, Carlos summoned to his house Severina Taclan, widow of the victim, and revealed to her what he had witnessed. The following day he executed a sworn statement in the Office of the National Bureau of Investigation.

The Autopsy Report and the Certificate of Death showed that Carlos died of shock secondary to external hemorrhage due to multiple stab wounds on the head, right axillary fossa and right thigh. The medico-legal expert opined that the wounds were caused by either a bolo or different sharp instruments and could have been inflicted by more than one person.

The four (4) accused denied any participation in the killing of Carlos and invoked alibi. According to Juan, from 7:00 o'clock in the morning to 4:00 o'clock in the afternoon of 20 February 1994 he was working in his ricefield together with Perfecto Gasta and a certain Aniano Calahatian. They had lunch in Juan's house around three hundred (300) meters away. At past 4:00 o'clock in the afternoon, Nemesio arrived and all of them had a drinking spree in the house of Juan until 7:00 o'clock in the evening. Carlos' house was approximately five hundred (500) meters from the ricefield of Juan and eight hundred (800) meters from his house. The narrations of Juan were corroborated by Nemesio, Perfecto and Aniano.

On the part of Danilo, he claimed that from 7:00 o'clock in the morning up to 4:00 o'clock in the afternoon of the day of the incident he was working in a citrus plantation around fifty (50) meters from his house and about thirty (30) meters from his father's house. In going home he passed by the house of his father where he saw Nemesio, Perfecto and Aniano drinking with his father, Juan Taclan. The house of Carlos was about seventy (70) to a hundred (100) meters away from his (Danilo's) house. Danilo's version was corroborated by his sister-in-law Evelyn Taclan.

The trial court accorded full credence to the testimony of Enrique Lagondino, the lone eyewitness for the prosecution, and found the accused Juan Taclan, Danilo Taclan, Nemesio Alcantara and Perfecto Gasta guilty beyond reasonable doubt of murder except that Perfecto Gasta was sentenced only as an accomplice in the murder. Of the four (4) accused, only Juan Taclan, Danilo Taclan and Nemesio Alcantara appealed. Perfecto Gasta did not appeal.

In their appeal, Juan and Danilo assail the credibility of Enrique Lagondino as they doubted his presence in the vegetable plantation of the deceased Carlos at such early hour. They also question the authenticity of his admission that he gathered vegetables and caught fish without asking permission from anyone on that particular day. They submit that any person about to commit a heinous crime would ensure that no one else would be present in the crime scene. They theorize that it may be easy for one to commit a grievous offense against a stranger or a non-relative but it is not likely for a man to kill his own brother over an alleged bank deposit in their father's name.

On the part of Nemesio Alcantara, he points at variances between Enrique's testimony and those of the

medico-legal expert which he considers serious, i.e., Enrique narrated that Juan hit Carlos at the lower portion of his head although the physician said that the victim had no wound at the back portion of his skull; Enrique testified that Carlos was hit at the upper portion of his right arm although the physician testified that the wound inflicted was inside the upper right arm extending to the lower portion of the armpit.

Nemesio Alcantara also considers as absurd the testimony of Enrique that in the afternoon of 20 February 1994 he hid himself for an hour and remained unnoticed despite the fact that he was only eight (8) meters from accused-appellants. Nemesio also claims that Enrique failed to explain satisfactorily his delay in divulging what he knew of the incident to Severina Taclan, widow of Carlos Taclan.

It may sound trite, but findings of fact of trial courts pertaining to the credibility of witnesses command great weight and respect since they had the opportunity to observe the witnesses' demeanor while testifying in court[3] unless certain facts of substance and value were plainly overlooked which, if considered, might affect the result of the case.[4] In the present appeal, we find no reason to depart from the findings of the court a quo. The testimony of Enrique being straightforward, unequivocal and spontaneous according to the court below is indeed worthy of credit and belief -

(To witness Enrique Lagondino) -

Q: I will direct your attention to the incident on February 20, 1994, can you still recall where you were on said date?

A: Yes, sir x x x I was in the vegetable plantation, sir.

Q: Whose vegetable plantation?

A: The owner was Carlos Taclan, sir.

Q: You are referring to the victim in this case?

A: Yes, sir.

Q: What were you doing at the vegetable plantation of the late Carlos Taclan?

A: Gathering vegetables, sir.

Q: While you were gathering vegetables, do you recall having met other persons within the vicinity?

A: I saw only, sir.

Q: Whom did you see?

A: I saw Carlos, Juan and Danny, all surnamed Taclan, sir.

Q: Where did you see them?

A: In the nipa hut of Carlos, sir.

Q: What were they doing there?

A: I just saw them, Mang Carlos, Mang Juan and Danny, sir.

Q: While they were there, what happened?

A: I heard somebody said (sic): "Putang ina mo, lumabas ka diyan."

Q: Who was that somebody who uttered that?

A: Juan Taclan, sir.

Q: Did you come to know to whom he directed these words?

A: To his brother Carlos, sir.

Q: And after Juan uttered that (sic) words, do you know what Carlos do (sic), if any?

A: Mang Carlos hang (sic) his jacket and bolo and he approached Mang Juan.

Q: Where did he hang his jacket? and bolo?

A: In the nipa hut, sir.

Q: After hanging his jacket and bolo what did he do?

A: He again entered his nipa hut and continued what he was doing, sir.

Q: After that what did Juan Taclan do, if any?

A: He did not leave the place, sir.

Q: When he did not leave, what happened?

A: It was Mang Carlos who left the place, he took his bolo and jacket and proceeded to San Felix, Victoria, Laguna, sir.

Q: Before Carlos Taclan left for San Felix, Victoria, Laguna, do you know if he talked to Juan Taclan?

A: No more, sir.

Q: After Carlos Taclan left for San Felix, what did you do?

A: I went home, sir.

Q: What time did you leave for home that morning of February 20, 1994?

A: More or less 8:00 o'clock in the morning, sir.

Q: And in the afternoon, what did you do?

A: I returned to our fishpond at around 2:00 o'clock in the afternoon, sir.

Q: Where is that fishpond where you went to, in relation to the vegetable plantation of Carlos Taclan?

A: It is near, sir.

Q: And what did you do in that afternoon after you returned to the fishpond?

A: I caught fish, sir.

Q: And while catching fish, do you recall having seen or met any person or persons within the vicinity that afternoon of February 20, 1994?

A: I saw, sir.

Q: Whom did you see?

A: I saw Juan Taclan, Danny Taclan, Memeng and Pecto, sir.

Q: In relation to where you were, from what direction did they come from?

A: From the ricefield, sir.

Q: Where did they proceed after you saw them coming?

A: They proceeded to the guava trees and banana plants, sir.

Q: What did they do after going near the banana plants and guava trees?

A: They hid there (nagsipagtago), sir.

Q: What did you do when you saw them hiding?

A: I also hid myself, sir.

Q: Where did you hide yourself?

A: In the Dapdap tree, sir.

Q: Thereafter, what transpired?

A: I saw Mang Carlos passing by at the place where they were hidden at around 4:00 o'clock that afternoon, sir.

Q: What happened when Mang Carlos passed by near the place where the accused were hiding?

A: Somebody made a signal, sir.

Q: Who made the signal?

A: Juan Taclan, sir.

Q: To whom did he make the signal?

A: To his companions, Danny, Memeng and Pecto, sir.

Q: How did he make the signal?

A: (Witness demonstrating by using his right hand waving the same from inside going outside).

Q: After accused Juan Taclan made the signal to his companions, what transpired next?

A: Carlos passed where Juan Taclan was hidden, sir.

Q: What did Juan Taclan do, if any, while Carlos was passing?

A: Juan Taclan hit Carlos at the head (witness pointing at the back portion of his lower head).

Q: After that what happened to Carlos Taclan?

A: Carlos fell downward (tumaob), and then Mang Juan again made a signal.

Q: Thereafter, what followed next?

A: They carried Mang Carlos towards the guava tree, sir.

Q: When you said they, to whom are you referring?

A: I am referring to Mang Juan, Memeng, Danny and Pecto, sir.

Q: How did they carry the victim Carlos Taclan in the direction near the bayabas tree?

A: Mang Juan held Carlos by the hand, Memeng held Carlos by his body, while Pecto and Danny held Carlos

by his feet, sir.

Q: And after they brought the victim near the bayabas tree, what happened next?

A: Danny Taclan pulled out his bolo and hacked Carlos, sir.

Q: How about the other accused, what did they do?

A: Memeng also stabbed Carlos, Danny dropped his bolo and took from his back pocket a knife and stabbed Carlos.

ATTY. ALVERO: Your Honor, I would like to request that the motion executed by the witness putting his left hand drawing from the back of his pants something be indicated on the record.

COURT: Enter into the record what Atty. Alvero have (sic) just stated.

ATTY. CONSUNTO: You said that Danny Taclan hit Carlos Taclan with a bolo, do you know where the victim was hit?

A: Carlos was hit on his right arm (witness pointing to the upper portion of his right arm).

ATTY. ALVERO: I would like also to put on record that the witness initially placed his right hand on his left shoulder and later on turn (sic) the left hand and put it in (sic) his right shoulder.

COURT: Put that on record.

ATTY. CONSUNTO:

Q: You said that Memeng likewise hit the victim with a bolo, where was the victim hit?

A: Also on his right arm, sir.

Q: You likewise said that Danny Teclan drew out his knife and stabbed the victim, do you know where the victim was hit?

A: On the thigh, sir.

Q: After Danny and Memeng hit the victim with bolo, where was the other accused Perfecto Gasta and what was he doing at that time?

A: He went to the fishpond (to) get some water and poured water on Carlos, sir.

Q: And thereafter what did he do?

A: Nothing more, sir.

Q: After water was poured on the body of Carlos Taclan, what happened?

A: I do not know anything more because I left the place already, sir.

As found likewise by trial court, the testimony of Enrique remained unshaken and steadfast on material points inspite of the grueling and rigorous cross-examination by the two (2) defense lawyers. His testimony on the injuries sustained by Carlos was substantially corroborated by the medico-legal expert. Moreover, no ill motive was established that could have impelled Enrique to testify falsely against accused-appellants.

The trial court correctly brushed aside the defenses of denial and alibi as they yielded to positive identification. Besides, the trial court found that, as culled from accused-appellants' own evidence, they were only about eight hundred (800) meters away from the scene of the crime. Not having been substantiated by clear and convincing

evidence, those defenses being negative and self-serving do not deserve any weight in law.[5]

With regard to the reservations of Juan and Danilo on the presence of Enrique at the vegetable plantation of Carlos at 7:00 o'clock in the morning, it is common knowledge, as correctly pointed out by the Solicitor General, that people in the provinces usually start their day even as early as 5:00 o'clock in the morning.

On the argument of accused-appellants Juan and Danilo Taclan that Enrique could not have gathered vegetables and caught fish without first getting permission from their owners, Enrique's narration on the witness stand was clear, i.e., he did not secure permission before gathering vegetables and catching fish that particular day because he had obtained their permission much earlier.[6]

Accused-appellants father and son would mistrust the statement of Enrique that when they arrived at 3:00 o'clock in the afternoon of 20 February 1994 they went to the guava tree and banana plants and hid there until Carlos passed by. They would have him mention that they had combed the area first for possible witnesses and capitalized on this as an unplugged loophole. We do not view this the way accused-appellants do. Their attention was focused intensely on the imminent arrival of Carlos[7] that immediately upon reaching the place they sought cover behind the guava tree and banana plants. The matter of sleuthing to ensure that the "coast was clear" must have completely escaped their minds, or, time was simply of the essence that to roam around might just derail their malevolent objective.

There was no contradiction between the testimony of Enrique that Juan hit Carlos at the lower portion of his head, and that of the medico-legal expert that Carlos had no wound at the back portion of his skull. Enrique demonstrated clearly before the trial court how Carlos was hit by Juan, i.e., by raising his right hand and striking the back portion of the head of counsel acting as medium.[8] Thus it was not unlikely that the blow had produced no wound. Neither was the testimony of Enrique that Carlos was hit at the upper portion of his right arm negated by the testimony of the medico-legal expert that the wound was inflicted inside the upper right arm which extended to the lower portion of the armpit. Such testimony of Enrique was a general witness account from a distance of eight (8) meters from appellants, whereas that of the medico-legal expert was specific based on physical examination of the victim's cadaver.

Enrique's narration that he hid unnoticed for about an hour behind the dapdap tree and only eight (8) meters away from accused-appellants is not incredible. Prior to accused-appellants' arrival Enrique was already positioned under the shade of the dapdap tree catching fish, hence, it did not require much effort on his part to hide behind that tree which shielded him and gave him a bird's-eye view of the events unfolding before his peering eyes.[9] The period of almost an hour that Enrique was hiding was, as it is, a mere estimate and, as already stated, accused-appellants' attention was intensely focused on the impending arrival of their quarry Carlos.

There is no standard behavior for a person confronted with a shocking incident. One may immediately report the incident to the proper authorities while another, in fear and/or avoiding involvement in a criminal investigation, may keep to himself what he had witnessed.[10] Still others like Enrique may come forward to reveal the identity of the perpetrators of the crime only after the lapse of considerable length of time.[11] We find that the fright experienced by Enrique was ample reason for him to have been initially tightlipped.

We therefore sustain the conviction of accused-appellants. Enrique was able to identify the assailants with certainty and to present a graphic description of how the victim was killed by them. Most often, the face and body movements of the malefactors create a lasting impression on the witness' mind which cannot be easily erased from his memory.[12]

Accused-appellants were of one mind not only in attacking Carlos but also in the manner with which the attack

was made. Their choice of weapons showed that they were united in their method of stabbing the victim. Where the acts of the accused collectively and individually demonstrate the existence of a common design towards the accomplishment of the same unlawful purpose, conspiracy is evident.[13]

Carlos was innocently walking and totally unaware of the planned attack against him. The suddenness of the assault, without the slightest provocation from him who was unarmed and with nary an opportunity to repel the aggression or defend himself, ineluctably qualified the crime with *alevosia*. [14] Evident premeditation was not established, while abuse of superior strength although proven was absorbed by treachery.

WHEREFORE, the decision appealed from finding accused-appellants JUAN TACLAN, DANILO TACLAN and NEMESIO ALCANTARA guilty of murder and sentencing them to reclusion perpetua and ordering them to pay jointly and severally P50,000.00 as indemnity for death and P15,000.00 as funeral expenses to the heirs of Carlos Tacan, and to pay the costs, is AFFIRMED.

SO ORDERED.

Puno, Mendoza, and Quisumbing, JJ., concur.

Buena, J., on leave.

[1] Information dated 7 April 1994; Records, pp. 2-3.

[2] Decision penned by Judge Fernando M. Paclibon Jr. of RTC-Br. 28, Santa Cruz, Laguna; Records, p. 254.

[3] *People v. Tañedo*, G. R. No. 110405, 2 January 1997, 266 SCRA 34.

[4] *People v. Ramirez*, G. R. No. 97920, 20 January 1997, 266 SCRA 335.

[5] *People v. Javier*, G. R. No. 84449, 4 March 1997, 269 SCRA 181.

[6] TSN, 27 June 1994, pp. 10 and 29.

[7] *People v. Collado*, G.R. No. 88631, 30 April 1991, 196 SCRA 519.

[8] TSN, 27 June 1994, p. 41.

[9] See *People v. Letigio*, G. R. No. 112968, 13 February 1997, 268 SCRA 227.

[10] *People v. Navales*, G. R. No. 112977, 23 January 1997, 266 SCRA 569.

[11] *People v. Dadles*, G. R. Nos. 118620-21, 1 September 1997, 278 SCRA 393.

[12] *People v. Martinez*, G. R. No. 116918, 19 June 1997, 274 SCRA 259.

[13] See Note 5.

[14] *People v. Pallarco*, G. R. No. 119971, 26 March 1998, 288 SCRA 151; *People v. Molina*, G. R. Nos. 115835-36, 22 July 1998; *People v. Sumalpong*, G. R. No. 124705, 20 January 1998, 284 SCRA 464.

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